

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 17540
	)	
[REDACTED],	)	DECISION
	)	
Petitioner.	)	
_____	)	

On February 13, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for taxable years 1994 through 2000 in the total amount of \$14,276.

The taxpayer filed a timely appeal. He did not request a hearing and did not submit additional information. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Because Tax Commission records showed the taxpayer met the state income tax filing requirements and had not filed Idaho returns for the years in question, the Bureau attempted to contact the taxpayer for an explanation. The taxpayer did not respond to the inquiry.

[Redacted] Idaho Code § 63-3045 (1)(a) states:

63-3045. Notice of redetermination or deficiency -- Interest.  
(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Because the taxpayer had not filed Idaho income tax returns for the years 1994 through 2000, the Bureau prepared returns on his behalf and sent him a Notice of Deficiency Determination. In response, the taxpayer sent a letter protesting the determination. In that letter, the taxpayer said he was in the process of obtaining his tax information. He said he did not file his tax returns because he was married and his ex-wife was filing “in a manner which I considered unlawful.” He said he did not know how to file after she filed the way she did because he was the one who supported the household and he deserved to claim the child.

Tax Commission records did not identify withholding for the taxpayer; however, the Bureau successfully obtained W-2s from the taxpayer’s employers after the appeal was filed. Each of the W-2s contained Idaho withholding. The Bureau copied the W-2s and sent them to the taxpayer along with a request for him to complete Idaho returns and submit them for filing. When the taxpayer did not submit the returns, the Bureau sent him an additional letter. Again, the taxpayer did not respond.

The taxpayer’s file was transferred to the Legal/Tax Policy Division for administrative review. He did not respond to a letter from the Tax Appeals Specialist that advised him of his appeal rights.

Tax Commission records show that from 1994 through 2000 the taxpayer was an Idaho resident with Idaho sourced income in excess of Idaho’s filing requirements. He did not file Idaho individual income tax returns for any of the years at issue.

The Bureau obtained the taxpayer’s income amounts from the records retained by Idaho Department of Labor and the IRS. Withholding was identified after the notice was sent to the taxpayer.

In the one letter the taxpayer sent, he stated he was married with one child during the time at issue. However, he has provided nothing to support the claim. The Tax Commission has none of the information required to investigate further, such as names, addresses, and social security numbers.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of his argument, the taxpayer has failed to meet his burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayer submitted nothing that would cast doubt on the Bureau's determination of Idaho income tax, penalty, and interest for the years 1994 through 2000. The withholding offsets a portion of each year's tax. However, for tax years 1997 and 1998, excess withholding remained after the Idaho tax was offset.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a credit or refund:

63-3072. Credits and refunds. . . .

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions. (Emphasis added.)

Idaho Code § 63-3035(e) requires an employee to claim amounts withheld from wages within a certain timeframe:

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. No credit or refund shall be made to an employee who fails to file his return, as required under this chapter, within three (3) years from the due date of the return, without regard to extensions, in respect of which the tax withheld might have been credited. In the event that the excess tax deducted is less than one dollar (\$1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed. (Emphasis added.)

The period of limitation with respect to claiming a refund or credit of taxes for 1997 expired on April 15, 2001, and the time allowed for claiming a credit or refund for 1998 expired on April 15, 2002. The taxpayer has failed to file his returns within the time allowed for claiming a refund or credit. The withholding will be allowed to offset each year's tax, but no credit or refund can be allowed.

WHEREFORE, the Notice of Deficiency Determination dated February 13, 2003, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$235	\$ 59	\$155	\$ 449
1995	594	149	338	1,081
1996	849	212	414	1,475
1997	-0-	-0-	-0-	-0-
1998	-0-	-0-	-0-	-0-
1999	590	148	148	886
2000	<18>	-0-	-0-	<18>
			TOTAL	\$3,873

Interest is computed through November 15, 2003.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]